

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION GRANTING A CONDITIONAL AND REVOCABLE MAJOR ENCROACHMENT PERMIT TO PRESCOTT PROPERTIES I EDP, LLC TO ALLOW TWO BUILDING ACCESS RAMPS, AND A FIRE SERVICE WATER BACKFLOW PREVENTOR TO ENCROACH INTO THE PUBLIC RIGHT OF WAY FRONTING THE PROPERTY AT 1919 PERALTA STREET, MAJOR ENCROACHMENT PERMIT ENMJ24053; AND ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, Prescott Properties I EDP, LLC (Permittee), is the owner of the real property known as 1919 Peralta Street and as described in a Grant Deed recorded August 17, 2021, by the Alameda County Clerk-Recorder and identified by the Alameda County Assessor as APN: 007-0569-002 and 007-0569-001-01 commonly known as 1919 Peralta Street (Property); and

WHEREAS, the Permittee proposes to keep and maintain existing encroachments consisting of two access ramps and a fire service backflow preventor (Encroachments); and

WHEREAS, the Encroachments were constructed such that approximately 28 square feet of access ramps and a fire service backflow preventor encroach into the public right-of-way on Peralta Street; the limits of encroachment are delineated on *Exhibit A* hereto and incorporated herein; and

WHEREAS, the Oakland Department of Transportation issued a sidewalk repair permit (CGS2301633); and

WHEREAS, upon a preconstruction inspection, the Oakland Department of Transportation noted the recently constructed Encroachments and placed a hold on the sidewalk repair permit until the Permittee obtained a Major Encroachment Permit approved by the City Council; and

WHEREAS, the Permittee has filed an application with the City of Oakland (City) for such conditional and revocable Major Encroachment Permit (ENMJ24053), hereinafter referred to as "Permit"; and

WHEREAS, staff has determined, in accordance with the Oakland Municipal Code Chapter 12.08 and based on a review of the plans and investigation of the Property and the area of the proposed Encroachments, that the Encroachments in the public right-of-way and their location will not interfere with the public use of the roadway, sidewalk, buried utilities, and will not endanger the public welfare and convenience during public use; and

WHEREAS, this action is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15301 (existing facilities), 15183 (Project Consistent with a Community Plan or Zoning), and 15061(b)(3) (no significant effect on the environment), each as a separate and independent basis; now, therefore, be it

RESOLVED: That the City Council has reviewed all relevant documents relating to its granting of this permit; and be it

FURTHER RESOLVED: That the City Council finds and determines that the decision made hereby is exempt from CEQA, on a separate and independent basis pursuant to CEQA Guidelines sections 15301 (existing facilities), 15183 (Projects Consistent with a Community Plan or Zoning), and 15061 (b)(3) (no significant effect on the environment) and therefore, the decision made hereby is made in conformance with the requirements of CEQA; and be it

FURTHER RESOLVED: That the City Council grants to the Permittee a conditional and revocable Permit to allow the Encroachments, which shall take effect only upon the City and Permittee entering into an Indenture Agreement in substantially the same form as attached hereto as *Exhibit B* (Indenture Agreement), the conditions therein being incorporated into the Permit; and be it

FURTHER RESOLVED: That the City Council, at its sole discretion and at a future date not yet determined, may impose additional and continuing fees for the use and occupancy of the public right-of-way; and be it

FURTHER RESOLVED: That the Permit authorized by this Resolution shall take effect when all the conditions and obligations set forth in the Indenture Agreement have been complied with to the satisfaction of the City of Oakland City Attorney and the City of Oakland City Engineer and shall become null and void upon the failure of the Permittee to comply with the conditions and obligations set forth in the Indenture Agreement, subject to the notice and cure provisions set forth therein, or upon termination by resolution of the City Council as being in the City's best interest; and be it

FURTHER RESOLVED: That the Oakland Department of Transportation is hereby directed to file a copy of the executed Indenture Agreement for recordation with the Office of the Alameda County Clerk-Recorder as an encumbrance of the title of the Property identified above.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California